

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO**

IN RE)	
)	
KEVIN R. BARBEE,)	Case No. 00-00201
)	
Debtor.)	SUMMARY ORDER
)	
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HONORABLE TERRY L. MYERS, UNITED STATES BANKRUPTCY JUDGE

Bert L. Osborn, Payette, Idaho, for Debtor.

Lois K. Murphy, Boise, Idaho, Trustee.

Office of the U. S. Trustee, Boise, Idaho.

Debtor, through his Counsel, moves the Court under to 11 U.S.C. § 350(b) and Fed.R.Bankr.P. 5010 to reopen his closed chapter 7 “no asset” case. Debtor wishes to reopen in order to add an omitted creditor.

This Court has previously rejected, in no uncertain terms, such requests. *In re Frederick*, 99.4 I.B.C.R. 178 (Bankr. D. Idaho 1999); *In re Mendiola*, 97.3 I.B.C.R. 77 (Bankr. D. Idaho 1997). The motion is not well taken and will be denied.

The fee of \$155.00 paid in connection with this motion falls under subdivision (9) of the Bankruptcy Court Miscellaneous Fee Schedule issued pursuant to 28 U.S.C.

§ 1930(b). It is assessable for the filing of the motion, whether or not the motion is ultimately granted. That fee was properly assessed here. The Court concludes that it will be retained.

The Debtor, Mr. Barbee, should not suffer any out-of-pocket cost for this futile and unwarranted exercise. Therefore Counsel shall personally bear the \$155.00 cost. Any payments received by Counsel from Debtor for the purpose of paying this fee shall be promptly returned and refunded by Counsel. The Court will also expect Counsel to refrain from charging his client any attorneys' fees in connection with this motion.

ORDER

For the reasons stated above, Debtor's motion is DENIED. The Clerk shall retain the fee which was paid at the filing of the motion. Counsel for Debtor shall bear this expense, and he shall ensure that any and all funds advanced for this purpose by Debtor are refunded. Also, Counsel shall not charge Debtor any attorneys' fees in regard to the motion to reopen. Counsel shall submit appropriate written verification to the U.S. Trustee that these conditions have been met.

Dated this 7th day of June, 2000.